

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X		
PAGANE MARITIME LTD.,	:	07 CV 10726 (PKL)
	:	
Plaintiff,	:	ECF CASE
	:	
- against -	:	
	:	
GLINGROW HOLDING LTD. and	:	
RIAS TRADING,	:	
	:	
Defendants.	:	
-----X		

**DECLARATION OF MATTHEW MOORE**

Matthew Moore declares as follows:

1. I am a solicitor with the law firm Ince & Co. in London, England. We are instructed by Pagane Maritime Ltd. ("Pagane") the Plaintiff in the matter.
2. I submit this Declaration in Opposition to the motion to vacate attachment filed by the Defendant Rias Trading.
3. I am aware that Glingrow Holding ("Glingrow") and Rias Trading ("Rias") are no longer represented by their former London solicitors, More Fisher & Brown ("MFB") who had the conduct of the matter in the period from 14 December 2007 to 10 January 2008, and MFB have asked that future correspondence should be addressed to a Ukrainian law firm, Astapov Lawyers.
4. I further understand that Glingrow and Rias have substituted its New York lawyers, Tisdale Law Office ("TLO"), with Reed Smith.
5. Prior to Glingrow and Rias replacing MFB and TLO they entered into a binding agreement that provided for all funds restrained in New York pursuant to

Pagane's maritime attachment to be held in an escrow account, pursuant to an agreement to be reached, as security for Pagane's claims against Glingrow which are subject to resolution in London arbitration.

6. Attached hereto as Exhibit 1 is correspondence exchanged between various counsel which demonstrates the negotiations leading up to and concluding with the aforesaid agreement concerning the funds attached in New York.

7. I briefly describe each communication for the Court's reference:

1. 12/14/07 email timed at 17:57 from MFB discussing a contemplated agreement on a deal involving Rias and Glingrow;

2. 12/17/07 email timed at 16:47 to MFB relating, *inter alia*, that the funds caught in New York pursuant to the Rule B will be transferred to a London escrow account;

3. 12/17/07 email timed at 16:53 from MFB commenting on the proposal;

4. 12/17/07 email timed at 17:29 from MFB confirming agreement on the proposal and inquiring if Plaintiff has ceased serving the maritime attachment;

5. 12/17/07 email timed at 17:58 from MFB regarding confirmation of the proposal in respect of the escrow;

6. 12/17/07 email timed at 19:41 from MFB agreeing to draft Consent Order that is intended to allow for release of funds and transfer of same to London escrow account;

7. 12/17/07 email timed at 19:38 from Lennon Murphy & Lennon ("LML") - Pagane's New York lawyers - to MFB and TLO discussing the terms of an escrow agreement;

8. 12/17/07 email timed at 19:52 from MFB to LML confirming that the *money will then make its way to London – there are no other claims to acknowledge. It will be held by us or by Ince pending agreement on escrow terms*;

9. 12/17/07 email timed at 20:08 from MFB advising that attached funds can be released to LML escrow account as earlier proposed by LML;

10. 12/17/07 email timed at 21:51 from MFB further confirming funds may be held in LML escrow account as consistent with agreement that the Rule B attachment would be suspended and money transferred to escrow as consideration for the transfer;

11. 12/18/07 email timed at 08:37 from MFB forwarding a proposed escrow agreement for the funds to be held as security for Pagane's claim;

12. 12/18/07 email timed at 08:59 from Ince & Co to MFB providing that Pagane agrees to voluntarily dismiss its Rule B attachment when attached funds are received into the nominated escrow account in London;

13. 12/18/07 email timed at 09:04 from MFB confirming the terms regarding a voluntary dismissal of the Rule B attachment;

14. 12/18/07 email timed at 19:44 from Ince & Co. to MFB relating to the escrow agreement to be finalized.

15. 12/20/07 email timed at 12:55 from MFB asking whether top-up (additional) security of US\$ 200,000 would be sufficient.

16. 01/03/08 email timed at 14:02 from MFB confirming that the funds caught in New York “*need to be remitted to an escrow to be held either by you or me*”.

17. 01/08/08 email from MFB asking whether an escrow containing the full principal sum of the claim would be acceptable.

18. 01/10/08 email from MFB indicating that they were no longer acting in the case.

8. It is unquestionable that the foregoing numerous correspondences show that there was a meeting of the minds regarding the disposition of the funds that had been attached in New York.

9. The Consent Order executed in New York was between not only Plaintiff and Glingrow but also Rias and has been signed by the Court.

10. When Glingrow and Rias signed the Consent Order they knowingly forewent their right to challenge the attachment of funds in New York.

11. The funds Rias seeks to release from attachment are the same funds that the parties agreed to remit to the London escrow account.

12. After the Consent Order was signed correspondence was exchanged in relation to the provision of top-up (additional) security to be given over and above the funds already attached in New York where they were being held pending their transfer to the London escrow account.

13. I have reviewed Rias motion papers and note well that Rias has not made any comments concerning why the Consent Order should not govern the further disposition of its funds.

14. I understand from LML that outside of those Rias funds restrained and governed by the Consent Order that there no further Rias funds held under attachment in New York and that further service of the attachment has been ceased.

15. Plaintiff reasonably and justifiably relied on the Glingrow and Rias' agreement to have the attached funds sent to London to serve as security for its claims pending in London arbitration when it ceased and desisted from further service of the attachment.

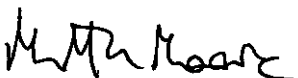
16. It is reasonable to assume that had the attachment been consistently served over the last several weeks that Plaintiff would have by now obtained full security for its claims.

17. It would be extremely inequitable to allow Rias to undo the agreement it entered into resulting in the Consent Order.

18. In the circumstances, Rias should be estopped from contesting the attachment of its funds subject to the Consent Order and rather should be ordered to comply with the Consent Order by completing the parties' agreement to transfer the attached funds to the London escrow account pending the outcome of the London arbitration.

I declare under penalty of perjury and the laws of the United States of America that the foregoing is true and correct.

Executed at International House, 1 St Katherine's Way, London E1W 1AY on January 15, 2008.

A handwritten signature in black ink, appearing to read 'Matthew Moore', written over a horizontal line.

Matthew Moore

# **EXHIBIT 1**

1

**Matthew Moore**

---

**From:** Mark Seward [MSeward@m-f-b.co.uk]  
**Sent:** 14 December 2007 17:57  
**To:** Matthew Moore  
**Subject:** PAGANE - WP  
**Attachments:** Pagane Hire statement.pdf; Pagane Hire statement.pdf

I can find the one to Rias adopting your position (attached) as at 29th showing no deductions. And the one to you showing this payment and another \$21k due basis completion on 5th which includes off hire from 28th as well as earlier off hires. The parties have corresponded about Novo; any deal will need Rias to agree as Glingrow are btb on this

Kind regards  
**Mark Seward**  
Partner

(direct) +44 20 7330 8006  
(mobile) +44 7971 049333

---

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The season's greetings from the partners and staff at MFB.

We will be making donations to the Mission to Seafarers and the RNLI in lieu of sending Christmas cards this year.

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14/01/2008

(2)

**Matthew Moore**

---

**From:** Matthew Moore  
**Sent:** 17 December 2007 16:47  
**To:** 'Mark Seward'  
**Cc:** Nick Burgess  
**Subject:** FW: PAGANE - WP

Dear Mark,

For the avoidance of any doubt, we set out below our understanding of what is being proposed:

1. The \$393,000 caught pursuant to the Rule B will be held in New York pending it being transferred to an escrow account in London. This money will stand as security for our Clients' claim for hire and related expenses, plus interest and costs.
2. Glingrow will settle their contribution to the cargo shortage claim by making a payment of US\$ 76,735 to us or our client (to be confirmed).
3. We will instruct our Clients' New York lawyers to seek to ensure that no further funds are attached or detained pending the escrow being established and the cargo claim being settled.
4. The Rule B will be discontinued/withdrawn when (a) the cargo shortage settlement monies amounting to US\$ 76,735 have been paid and (b) the US\$ 393,000 has been transferred into escrow in London.

If you are in a position to confirm this approach is in order we will send the requisite instructions to our Clients' lawyers in New York.

Best regards,  
Matthew Moore  
Ince & Co.

---

**From:** Mark Seward [mailto:MSeward@m-f-b.co.uk]  
**Sent:** 17 December 2007 16:11  
**To:** Matthew Moore  
**Cc:** Kevin J. Lennon  
**Subject:** PAGANE - WP

Matthew

As we discussed, I suggest that the amount that you currently have detained (I understand c\$393,000) be held by you in NY and transferred to an escrow on terms to be agreed - I will forward a draft in a moment as well as a draft consent order for the NY Court. If you need someone to appear on my side I will arrange it.

Glingrow will pay 50% of the shortage claim in full and final settlement of "cargo claims"

In return you will immediately cease serving pmags and undertake not to re-attach

You will withdraw the Rule B, by consent, upon receipt of the 50% referred to above.

Please take urgent instructions as we need this account released> while recent experience counsel's me against hope, this should be do-able today

14/01/2008



thanks

Kind regards  
**Mark Seward**  
Partner

(direct) +44 20 7330 8006  
(mobile) +44 7971 049333

---

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**Matthew Moore**

(3)

**From:** Mark Seward [MSeward@m-f-b.co.uk]  
**Sent:** 17 December 2007 16:53  
**To:** Matthew Moore  
**Cc:** Nick Burgess  
**Subject:** RE: PAGANE - WP

Yes, I will get a formal OK but that is what I propose and what I understand Glingrow agree

mark

---

**From:** Matthew Moore [mailto:matthew.moore@incelaw.com]  
**Sent:** 17 December 2007 16:47  
**To:** Mark Seward  
**Cc:** Nick Burgess  
**Subject:** FW: PAGANE - WP

Dear Mark,

For the avoidance of any doubt, we set out below our understanding of what is being proposed:

1. The \$393,000 caught pursuant to the Rule B will be held in New York pending it being transferred to an escrow account in London. This money will stand as security for our Clients' claim for hire and related expenses, plus interest and costs.
2. Glingrow will settle their contribution to the cargo shortage claim by making a payment of US\$ 76,735 to us or our client (to be confirmed).
3. We will instruct our Clients' New York lawyers to seek to ensure that no further funds are attached or detained pending the escrow being established and the cargo claim being settled.
4. The Rule B will be discontinued/withdrawn when (a) the cargo shortage settlement monies amounting to US\$ 76,735 have been paid and (b) the US\$ 393,000 has been transferred into escrow in London.

If you are in a position to confirm this approach is in order we will send the requisite instructions to our Clients' lawyers in New York.

Best regards,  
Matthew Moore  
Ince & Co.

---

**From:** Mark Seward [mailto:MSeward@m-f-b.co.uk]  
**Sent:** 17 December 2007 16:11  
**To:** Matthew Moore  
**Cc:** Kevin J. Lennon  
**Subject:** PAGANE - WP

14/01/2008

Matthew

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Glingrow will pay 50% of the shortage claim in full and final settlement of "cargo claims"

In return you will immediately cease serving pmags and undertake not to re-attach

You will withdraw the Rule B, by consent, upon receipt of the 50% referred to above.

Please take urgent instructions as we need this account released> while recent experience counsel's me against hope, this should be do-able today

thanks

Kind regards  
**Mark Seward**  
Partner

(direct) +44 20 7330 8006  
(mobile) +44 7971 049333

---

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Season's Greetings from Ince & Co

Ince & Co International Law Firm

Dubai Hamburg Hong Kong Le Havre London Paris Piraeus Shanghai Singapore

[www.incelaw.com](http://www.incelaw.com)

International House  
1 St. Katharine's Way  
London E1W 1AY

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**Matthew Moore**

---

**From:** Mark Seward [MSeward@m-f-b.co.uk]  
**Sent:** 17 December 2007 17:29  
**To:** Matthew Moore; Nick Burgess  
**Subject:** PAGANE

Matthew

yes agreed; please confirm when Kevin has stopped serving

Kind regards  
**Mark Seward**  
Partner

(direct) +44 20 7330 8006  
(mobile) +44 7971 049333

---

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**Matthew Moore**

**From:** Mark Seward [MSeward@m-f-b.co.uk]  
**Sent:** 17 December 2007 17:58  
**To:** Matthew Moore; Nick Burgess  
**Cc:** Kevin J. Lennon; Thomas Tisdale  
**Subject:** PAGANE  
**Importance:** High

Matthew, for the avoidance of doubt that needs to be done with ceasing pmags today and preferably signing the consent order and lodging it.

As we discussed, we will pay the 50% of the shortage (ie half the \$153k) now but will require in due course that pagane have paid it. Not controversial I hope.

I copy in Tom who will sign for me (when I have filled him in about the case)

Kind regards  
**Mark Seward**  
Partner

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(mobile) +44 7971 049333

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Matthew Moore

From: Mark Seward [MSeward@m-f-b.co.uk]  
Sent: 17 December 2007 19:41  
To: klennon@lenmur.com; ttisdale@tisdale-law.com  
Cc: Matthew Moore; Nick Burgess  
Subject: Re: PAGANE [BULCOM v GLINGROW HOLDING AND RIAS TRADING]

That looks fine to me unless Tom has any particular comments

Kevin, you have my bank details. But if I once prefer to hold the money I do not mind. I just do not want to delay beyond today

Mark

— Original Message —

From: Kevin J. Lennon <klennon@lenmur.com>  
To: Thomas Tisdale <ttisdale@tisdale-law.com>  
Cc: Mark Seward; Matthew Moore <matthew.moore@inccelaw.com>; Nick Burgess <nick.burgess@inccelaw.com>  
Sent: Mon Dec 17 19:30:42 2007  
Subject: RE: PAGANE [BULCOM v GLINGROW HOLDING AND RIAS TRADING]

Our ref: 07-1306

Dear Tom:

In response to your below email please see a draft proposed Consent Order attached. Please let me have your comments.

Once the Order is agreed we can have it sent in to Judge Leisure for him to So Order and can then start drafting the joint letter for release of the funds. In this respect, to London counsel reading in copy, please provide us with the details of the escrow account where these funds are to be sent to stand as security for Bulcom's claims against Glingrow.

Thanks very much and happy holidays to all.

Kind regards,

Kevin J. Lennon

Lennon, Murphy & Lennon, LLC [www.lenmur.com](http://www.lenmur.com) <<http://www.lenmur.com>>

The Gray Bar Building, 420 Lexington Avenue, Ste 300, New York, NY 10170

P (212) 490-6050

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F (212) 490-6070

Tide Mill Landing, 2425 Post Road, Ste 302, Southport, CT 06890

P (203) 256-8600

F (203) 256-8615

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From: Thomas Tisdale [mailto:[tisdale@tisdale-law.com](mailto:tisdale@tisdale-law.com)]  
Sent: Monday, December 17, 2007 1:36 PM  
To: Kevin J. Lennon  
Subject: RE: PAGANE

Kevin,

I assume its the same type of agreements used in British Marine. Can you please draft them up so that we can get rid of both today?

Tom

Thomas L. Tisdale

11 West 42nd Street, Suite 900

New York, NY 10036

(212) 354-0025

Fax: (212) 869-0067

10 Spruce Street

Southport, CT 06890

(203) 254-8474

Fax: (203) 254-1641

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-----Original Message-----

From: Mark Seward [mailto:[MSeward@m-f-b.co.uk](mailto:MSeward@m-f-b.co.uk)]  
Sent: Monday, December 17, 2007 12:58 PM  
To: Matthew Moore; Nick Burgess

14/01/2008

Cc: Kevin J. Lennon; Thomas Tisdale  
Subject: PAGANE  
Importance: High

Matthew, for the avoidance of doubt that needs to be done with ceasing pmags today and preferably signing the consent order and lodging it.

As we discussed, we will pay the 50% of the shortage (ie half the \$153k) now but will require in due course that pagane have paid it. Not controversial I hope.

I copy in Tom who will sign for me (when I have filled him in about the case)

Kind regards

Mark Seward

Partner

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**Matthew Moore**

---

**From:** Kevin J. Lennon [klennon@lenmur.com]  
**Sent:** 17 December 2007 19:38  
**To:** Mark Seward; ttisdale@tisdale-law.com  
**Cc:** Matthew Moore; Nick Burgess  
**Subject:** RE: PAGANE [BULCOM v GLINGROW HOLDING AND RIAS TRADING]

Our ref.: 07-1306

Thanks Mark. I will look for comments from Tom regarding the draft Order and Matt/Nick regarding where the funds are to be held. On that front is there an escrow agreement agreed?

FYI – the banks will not release w/o a signed Order and there is no way to ensure Judge Leisure will sign it w/in today.

Further, and again I will look for Matt/Nick to confirm – I had thought that the funds in NY would be released once the 50% of the cargo claim had been paid or perhaps that was for dismissal of the NY attachment? Please let me know. Thank you.

Kind regards,

**Kevin J. Lennon**

Lennon, Murphy & Lennon, LLC www.lenmur.com

The Gray Bar Building, 420 Lexington Avenue, Ste 300, New York, NY 10170  
P (212) 490-6050  
F (212) 490-6070

Tide Mill Landing, 2425 Post Road, Ste 302, Southport, CT 06890  
P (203) 256-8600  
F (203) 256-8615

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**From:** Mark Seward [mailto:MSeward@m-f-b.co.uk]  
**Sent:** Monday, December 17, 2007 2:41 PM  
**To:** Kevin J. Lennon; ttisdale@tisdale-law.com  
**Cc:** matthew.moore@incelaw.com; nick.burgess@incelaw.com  
**Subject:** Re: PAGANE [BULCOM v GLINGROW HOLDING AND RIAS TRADING]

That looks fine to me unless Tom has any particular comments

Kevin, you have my bank details. But if Ince prefer to hold the money I do not mind. I just do not want to delay beyond today

Mark

— Original Message —

**From:** Kevin J. Lennon <klennon@lenmur.com>  
**To:** Thomas Tisdale <ttisdale@tisdale-law.com>

14/01/2008

Cc: Mark Seward; Matthew Moore <matthew.moore@incelaw.com>; Nick Burgess <nick.burgess@incelaw.com>  
Sent: Mon Dec 17 19:30:42 2007  
Subject: RE: PAGANE [BULCOM v GLINGROW HOLDING AND RIAS TRADING]

Our ref.: 07-1306

Dear Tom:

In response to your below email please see a draft proposed Consent Order attached. Please let me have your comments.

Once the Order is agreed we can have it sent in to Judge Leisure for him to So Order and can then start drafting the joint letter for release of the funds. In this respect, to London counsel reading in copy, please provide us with the details of the escrow account where these funds are to be sent to stand as security for Bulcom's claims against Glingrow.

Thanks very much and happy holidays to all.

Kind regards,

Kevin J. Lennon

Lennon, Murphy & Lennon, LLC [www.lenmur.com](http://www.lenmur.com) <<http://www.lenmur.com>>

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---

From: Thomas Tisdale [<mailto:ttisdale@tisdale-law.com>]  
Sent: Monday, December 17, 2007 1:36 PM  
To: Kevin J. Lennon  
Subject: RE: PAGANE

14/01/2008

Kevin,

I assume its the same type of agreements used in British Marine. Can you please draft them up so that we can get rid of both today?

Tom

Thomas L. Tisdale

11 West 42nd Street, Suite 900

New York, NY 10036

(212) 354-0025

Fax: (212) 869-0067

10 Spruce Street

Southport, CT 06890

(203) 254-8474

Fax: (203) 254-1641

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—Original Message—

From: Mark Seward [mailto:MSeward@m-f-b.co.uk]

Sent: Monday, December 17, 2007 12:58 PM

To: Matthew Moore; Nick Burgess

Cc: Kevin J. Lennon; Thomas Tisdale

Subject: PAGANE

Importance: High

Matthew, for the avoidance of doubt that needs to be done with ceasing pmags today and preferably signing the consent order and lodging it.

As we discussed, we will pay the 50% of the shortage (ie half the \$153k) now but will require in due course that pagane have paid it. Not controversial I hope.

I copy in Tom who will sign for me (when I have filled him in about the case)

Kind regards

Mark Seward

14/01/2008

Partner

(direct) +44 20 7330 8006

(mobile) +44 7971 049333

---

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---

The season's greetings from the partners and staff at MFB.

We will be making donations to the Mission to Seafarers and the RNLI in lieu of sending Christmas cards this year.

<<http://www.m-f-b.co.uk>>

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**Matthew Moore**

---

**From:** Mark Seward [MSeward@m-f-b.co.uk]  
**Sent:** 17 December 2007 19:52  
**To:** kennon@lenmur.com; tisdale@tisdale-law.com  
**Cc:** Matthew Moore; Nick Burgess  
**Subject:** Re: PAGANE [BULCOM v GLINGROW HOLDING AND RIAS TRADING]

Kevin

No escrow is yet agreed; I can put one over tonight to Incc. However, I do not think it is necessary as we are all grown ups.

My understanding is that the agreement is that we agree the consent order and present it on opening (agreed its too late today). The money will then make its way to London - there are no other claimants to our knowledge. It will be held by us or incc pending agreement on escrow terms.

You cease pmags now and agree not to restart them

the rule b is released only when the 50% is received by incc or their clients

Mark

---

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Matthew Moore

From: Mark Seward [MSeward@m-f-b.co.uk]  
Sent: 17 December 2007 20:08  
To: klennon@lenmur.com; ttisdale@tisdale-law.com  
Cc: Matthew Moore; Nick Burgess  
Subject: Re: PAGANE [BULCOM v GLINGROW HOLDING AND RIAS TRADING]

Kevin

Yes take it into your account. Then all can be done, including releasing the rule b, tomorrow  
Matt, you happy with that

Mark

----- Original Message -----

From: Kevin J. Lennon <klennon@lenmur.com>  
To: Mark Seward; ttisdale@tisdale-law.com <ttisdale@tisdale-law.com>  
Cc: matthew.moore@incelaw.com <matthew.moore@incelaw.com>; nick.burgess@incelaw.com  
<nick.burgess@incelaw.com>  
Sent: Mon Dec 17 19:55:46 2007  
Subject: RE: PAGANE [BULCOM v GLINGROW HOLDING AND RIAS TRADING]

Our ref.: 07-1306

Dear Mark:

Thanks for yours below. I trust that if Matt or Nick have any differing view they will let the same be known.

In order to get the funds released we will need you to agree w/ Inces where the funds shall be held.

We can (if easier on all) hold the same in a sub-account of court client escrow account pending agreement. The benefit of this is that the funds are physically removed from the New York jurisdiction and hence not subject to a further Rule B attachment in the SDNY. Let me know if this is where the funds should initially proceed.

In respect of cease and desist that should go out soon and I will circulate a copy. We will also (as per earlier discussions) let any further restrained funds proceed.

We ask Inces to confirm that they have reserved rights to (a) dismiss Rule B w/o prejudice and w/o costs and (b) to re-start service of the attachment if funds are not received in London or the 50% settlement is not paid / received by Inces or Bulcom.

Kind regards,

14/01/2008

Kevin J. Lennon

Lennon, Murphy & Lennon, LLC [www.lenmur.com](http://www.lenmur.com) <<http://www.lenmur.com>>

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---

From: Mark Seward [<mailto:MSeward@m-f-b.co.uk>]  
Sent: Monday, December 17, 2007 2:52 PM  
To: Kevin J. Lennon; [tisdalc@tisdale-law.com](mailto:tisdalc@tisdale-law.com)  
Cc: [matthew.moore@incelaw.com](mailto:matthew.moore@incelaw.com); [nick.burgess@incelaw.com](mailto:nick.burgess@incelaw.com)  
Subject: Re: PAGANE [BULCOM v GLINGROW HOLDING AND RIAS TRADING]

Kevin

No escrow is yet agreed; I can put one over tonight to Ince. However, I do not think it is necessary as we are all grown ups.

My understanding is that the agreement is that we agree the consent order and present it on opening (agreed is too late today). The money will then make its way to London - there are no other claimants to our knowledge. It will be held by us or ince pending agreement on escrow terms.

You cease pmags now and agree not to restart them

the rule b is released only when the 50% is received by ince or their clients

Mark

---

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We will be making donations to the Mission to Seafarers and the RNLI in lieu of sending Christmas cards this year.

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Matthew Moore

From: Mark Seward [MSeward@m-f-b.co.uk]  
Sent: 17 December 2007 21:51  
Cc: Matthew Moore; Nick Burgess  
Subject: Re: PAGANE [BULCOM v GLINGROW HOLDING AND RIAS TRADING]

Are agreed please? if you want to agree escrow terms tonight; my clients will do what I tell them

I will send you one but as the money is just going to Lenmar, it is not necessary today

Can you let me know please, I am been working since 3am and am rather tired

Thanks  
Mark Seward  
Partner  
MFB Solicitors

TEL +44 207 330 8000  
MOB +44 7971 049333  
DDI +44 207 330 8006

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**Matthew Moore**



---

**From:** Mark Seward [MSeward@m-f-b.co.uk]  
**Sent:** 18 December 2007 08:37  
**To:** Matthew Moore  
**Cc:** Nick Burgess  
**Subject:** PAGANE - WP  
**Attachments:** MFBDOCS01-#271487-v1-draftescrow.DOC

Matthew

This is my standard escrow, please review and approve/comment. If you want a complex one I have one of those too but, frankly, I do not see the point

thanks

Kind regards  
**Mark Seward**  
Partner

(direct) +44 20 7330 8006  
(mobile) +44 7971 049333

---

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### ESCROW AGREEMENT

This Escrow Agreement is made this day of 2007

**BETWEEN :**

(1) Pagane Maritime Ltd (hereinafter referred to as "the Owners")

and

(2). Glingrow Holding Limited (hereinafter referred to as "the Charterers")

**WHEREAS :**

- A. The Owners chartered the MV " PAGANE" ("the Vessel") to the Charterers under a time charterparty dated 17.10.2007, ("the Charterparty").
- B. Disputes have arisen under the Charterparty.
- C. Owners allege that hire is in the sum of US\$ approx. ("the Disputed Hire") is due under the Charterparty until completion of discharge and redelivery.
- D. Charterers deny any further hire is due.

**Now it is hereby AGREED as follows :**

1. In consideration of the Owners refraining from taking any steps to arrest or detain any ship or other property in the same or associated ownership and/or management and/or control of the Charterers in respect of the Disputed Hire and of discharging the cargo destined for without additional delay and in consideration of Owners making no claim for interim or preliminary determination of their claims, the Charterers agree by consent to order to pay the sum of US\$ 393,000 (THREE HUNDRED AND NINETY THREE THOUSAND UNITED STATES DOLLARS), into the client account of Messrs. Ince and Co (hereinafter referred to as "the Stakeholder") at [ ] (hereinafter referred to as "the Escrow Account") to be held by the Stakeholder in an interest-bearing account as stakeholders pursuant to the terms of this Escrow Agreement and to be treated as payment of hire in accordance with the charterparty
2. The Stakeholder shall only disburse the Escrow Fund, less any bank charges;
  - 2.1. Upon receipt of written instructions by either the Owners or the Charterers releasing the Escrow Fund in favour of the other; or
  - 2.2. In accordance with a joint written agreement between the Owners and the Charterers recording a final settlement of their claims under the Charterparty; or
  - 2.3. In payment or part-payment of any amount in respect of any disputes under the Charterparty due to one party or the other or both parties under any final and unappealable arbitration award made by a London Arbitration Tribunal duly appointed in accordance with the terms of the Charterparty or any agreed amendment thereto, or a final judgment obtained on appeal therefrom (after all appeals, in any); or
  - 2.4. In accordance with paragraphs 4 or 8 below, provided always that
3. If the total amount of the Escrow Fund is insufficient to satisfy the amount payable to either the Owners or the Charterers under any such settlement agreement, final award or final judgment, then the said total amount shall be used in part-payment of the amount due to that party who shall then be at liberty to seek payment of any balance without reference to the terms hereof.
4. If the total amount of the Escrow Fund is greater than the amount payable under any such settlement agreement, final award or final judgment, then the balance of the Escrow Fund after payment of such

amount shall be paid to the Charterers.

5. The Escrow Account shall not be deemed to form part of the assets or estate of either party and shall only be released and distributed upon the happening of the events referred to herein.
6. Each party shall have the right to seek and obtain information from the other party with regard to the status of the Escrow Account.
7. This Agreement shall be governed by English law and the parties hereby agree to submit any dispute in respect of this agreement to the exclusive jurisdiction of the High Court of Justice in London and each party undertakes, when called upon so to do, to instruct solicitors in England to accept service of any proceedings arising out of this agreement.
8. Ince and Co for owners, and MFB for charterers, warrant that they are authorized to enter into this agreement on behalf of owners and charterers respectively.

Signed :

.....  
for and on behalf of Owners

.....  
for and on behalf of Charterers

.....

12

**Matthew Moore**

---

**From:** Matthew Moore  
**Sent:** 18 December 2007 08:59  
**To:** 'Mark Seward'  
**Cc:** Nick Burgess  
**Subject:** RE: PAGANE - WP

Dear Mark,

We will review the proposed escrow agreement and revert to you.

Our client account details for payment of the contribution to the shortage claim are:

The Royal Bank of Scotland plc  
5-10 Great Tower Street  
London, EC3P 3HX

Sort Code:	15-20-25
IBAN BIC / SWIFT code:	RBOS GB2L
Account name:	Ince USD Client Account
Account Number:	INCE-USDC
IBAN:	GB48 RBOS 1663 0000 1057 60
Ref:	NDB/MSM - "PAGANE"

On the question of voluntary dismissal of the attachment, this will be agreed when (a) the attached funds are received into the nominated escrow account in London and (b) the 50% cargo settlement is received in our account. On the basis that no further attachments are being made we trust this will not cause any inconvenience to Glingrow.

Best regards,  
Matthew Moore  
Ince & Co.

---

**From:** Mark Seward [mailto:MSeward@m-f-b.co.uk]  
**Sent:** 18 December 2007 08:37  
**To:** Matthew Moore  
**Cc:** Nick Burgess  
**Subject:** PAGANE - WP

Matthew

This is my standard escrow, please review and approve/comment. If you want a complex one I have one of those too but, frankly, I do not see the point

thanks

Kind regards  
Mark Seward  
Partner

(direct) +44 20 7330 8006

14/01/2008

(mobile) +44 7971 049333

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(13)

**Matthew Moore**

---

**From:** Mark Seward [MSeward@m-f-b.co.uk]  
**Sent:** 18 December 2007 09:04  
**To:** Matthew Moore  
**Cc:** Nick Burgess  
**Subject:** RE: PAGANE - WP

That is fine as long as we are agreed as Kevin indicated last night that no attachments are being served by you at present

Mark

---

**From:** Matthew Moore [mailto:matthew.moore@incelaw.com]  
**Sent:** 18 December 2007 08:59  
**To:** Mark Seward  
**Cc:** Nick Burgess  
**Subject:** RE: PAGANE - WP

Dear Mark,

We will review the proposed escrow agreement and revert to you.

Our client account details for payment of the contribution to the shortage claim are:

The Royal Bank of Scotland plc  
5-10 Great Tower Street  
London, EC3P 3HX

Sort Code:	15-20-25
IBAN BIC / SWIFT code:	RBOS GB2L
Account name:	Ince USD Client Account
Account Number:	INCE-USDC
IBAN:	GB48 RBOS 1663 0000 1057 60
Ref:	NDB/MSM - "PAGANE"

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Best regards,  
Matthew Moore  
Ince & Co.

---

**From:** Mark Seward [mailto:MSeward@m-f-b.co.uk]  
**Sent:** 18 December 2007 08:37  
**To:** Matthew Moore

14/01/2008



**Cc:** Nick Burgess  
**Subject:** PAGANE - WP

Matthew

This is my standard escrow, please review and approve/comment. If you want a complex one I have one of those too but, frankly, I do not see the point

thanks

Kind regards  
**Mark Seward**  
Partner

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14/01/2008

Season's Greetings from Ince & Co

Ince & Co International Law Firm

Dubai Hamburg Hong Kong Le Havre London Paris Piraeus Shanghai Singapore

[www.incelaw.com](http://www.incelaw.com)

International House  
1 St. Katharine's Way  
London E1W 1AY

DX 1070 LONDON CITY

Tel +44 20 7481 0010  
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**Matthew Moore**

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**From:** Matthew Moore  
**Sent:** 18 December 2007 19:44  
**To:** 'Mark Seward'  
**Cc:** Nick Burgess  
**Subject:** PAGANE - Draft Escrow -Without Prejudice

**Attachments:** Ince & MFB - draftecrow.DOC.DOC

Dear Mark,

We are prepared to recommend that our Clients agree to the Escrow Agreement in the attached form. Please will you confirm it is acceptable to you?

Best regards,  
Matthew Moore  
Ince & Co.



Ince & MFB -  
draftecrow.DOC.I

**ESCROW AGREEMENT**

This Escrow Agreement is made this day of 2007

**BETWEEN :**

(1) Pagane Maritime Ltd (hereinafter referred to as "the Owners")

and

(2) Gilingrow Holding Limited (hereinafter referred to as "the Charterers")

**WHEREAS :**

- A. The Owners chartered the MV " PAGANE" ("the Vessel") to the Charterers under a time charterparty dated 17.10.2007, ("the Charterparty").
- B. Disputes have arisen under the Charterparty.
- C. Owners allege that hire and other expenses is in the sum of US 231,125.00- ---- approx. ("the Disputed Hire") are due under the Charterparty until completion of discharge and redelivery.
- D. Charterers deny any further hire and other expenses are due.

**Now it is hereby AGREED as follows :**

1. In consideration of the Owners refraining from taking any steps to arrest or detain any ship or other property in the same or associated ownership and/or management and/or control of the Charterers in respect of the Disputed Hire and other expenses and of discharging the cargo destined for without additional delay and in consideration of Owners making no claim for interim or preliminary determination of their claims, the Charterers agree by consent to order to pay the sum of US 393,000 (THREE HUNDRED AND NINETY THREE THOUSAND UNITED STATES DOLLARS), into the client account of Messrs. Ince and Co (hereinafter referred to as "the Stakeholder") at [ to be inserted by Ince ] (hereinafter referred to as "the Escrow Account") to be held by the Stakeholder as security for Disputed Hire claim and any interest and costs in an interest-bearing account as stakeholders pursuant to the terms of this Escrow Agreement, and to be treated as payment of hire in accordance with the charterparty
2. The Stakeholder shall only disburse the Escrow Fund, less any bank charges;
  - 2.1. Upon receipt of written instructions by either the Owners or the Charterers releasing the Escrow Fund in favour of the other; or
  - 2.2. In accordance with a joint written agreement between the Owners and the Charterers recording a final settlement of their claims under the Charterparty; or
  - 2.3. In payment or part-payment of any amount in respect of any disputes under the Charterparty due to one party or the other or both parties under any final and unappealable arbitration award made by a London Arbitration Tribunal duly appointed in accordance with the terms of the Charterparty or any agreed amendment thereto, or a final judgment obtained on appeal therefrom (after all appeals, in any); or
  - 2.4. In accordance with paragraphs 4 or 8 below, provided always that
3. If the total amount of the Escrow Fund is insufficient to satisfy the amount payable to either the Owners or the Charterers under any such settlement agreement, final award or final judgment, then the said total amount shall be used in part-payment of the amount due to that party who shall then be at liberty to seek payment of any balance without reference to the terms hereof.
4. If the total amount of the Escrow Fund is greater than the amount payable under any such settlement

agreement, final award or final judgment, then the balance of the Escrow Fund after payment of such amount shall be paid to the Charterers.

~~5.5~~ The Escrow Account shall not be deemed to form part of the assets or estate of either party and shall only be released and distributed upon the happening of the events referred to herein.

~~6.6~~ Each party shall have the right to seek and obtain information from the other party with regard to the status of the Escrow Account.

~~7.7~~ This Agreement shall be governed by English law and the parties hereby agree to submit any dispute in respect of this agreement to the exclusive jurisdiction of the High Court of Justice in London and each party undertakes, when called upon so to do, to instruct solicitors in England to accept service of any proceedings arising out of this agreement.

~~8.8~~ Ince and Co for owners, and MFB for charterers, warrant that they are authorized to enter into this agreement on behalf of owners and charterers respectively.

Signed :

.....  
for and on behalf of Owners

.....  
for and on behalf of Charterers

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**Matthew Moore**

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**From:** Mark Seward [MSeward@m-f-b.co.uk]  
**Sent:** 20 December 2007 12:55  
**To:** Matthew Moore  
**Cc:** Nick Burgess  
**Subject:** Re: PAGANE - Shortage / Hire Claim - Without Prejudice

Matthew

On top up, while I do not accept that you can have morw security, will 200k do?

Mark

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The season's greetings from the partners and staff at MFB.

We will be making donations to the Mission to Seafarers and the RNLI in lieu of sending Christmas cards this year.

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**Matthew Moore**

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**From:** Mark Seward [MSeward@m-f-b.co.uk]  
**Sent:** 03 January 2008 14:02  
**To:** Matthew Moore  
**Subject:** PAGANE - WP

Dear Matthew,

I refer to our discussions and exchanges and in particular my email sent to you on 27<sup>th</sup>. Have you had any thoughts on that? Secondly the monies are now being held as you know in New York and they need to be remitted to an escrow to be held either by you or me. Are we yet agreed on where they will go?

I have no preference and if your clients feel strongly they should be in your hands then I am prepared to agree that. However I would like to get the money out of New York and the Rule B lifted and my New York lawyers paid so we can move on to chapter 2. I await your constructive comments in relation to the points I have raised on time issues.

Kind regards  
**Mark Seward**  
Partner

(direct) +44 20 7330 8006  
(mobile) +44 7971 049333

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(17)

**Matthew Moore**

**From:** Mark Seward [MSeward@m-f-b.co.uk]  
**Sent:** 08 January 2008 06:54  
**To:** Matthew Moore  
**Cc:** Nick Burgess  
**Subject:** Re: PAGANE -wp

Matthew

I am glad that after a lot of wasted money I have managed to find out via New York what has been going on. I am sure that you will agree, that should not have been necessary. If we cannot settle, and I turn to that below, will you accept an escrow containing the full principal sum of your claim. In a claim for unpaid hire, this seems reasonable.

I am, however, prepared to settle the claim today if necessary. However, for that goal to be achieved you need to communicate with me on the issue, which you are not doing. As I see it the final hire balance is genuinely about \$40k in my clients' favour. I have suggested that some concession is made and clients agree with that simply because they do want to tie up their money in the escrow and not do they want to waste it on lawyers.

We have now paid the no fault paper "cargo" claim; the contamination claim was paid before the vessel was detained; so the detention (an off hire event) was caused solely by your clients' refusal (not delay) to post security, which was their responsibility as it was their asset which was detained. You like me will have had this argument many times; Any argument based upon breach simply does not work as the cause of the loss of time was solely the actions of your clients themselves. Notwithstanding the fact your clients made no effort to respond on security I accept that had they done so it would have taken a little time so I will recommend that Glingrow offer you a day, entirely without prejudice to liability (of which I see none). I will also recommend half a day for the events an Novo.

I feel, absent any explanation from you as to why you are correct, this is a fairly generous proposal. I would be able to obtain instructions on this immediately; (I would hope these would be positive) and your clients can have their money today.

Please take instructions

Mark Seward  
Partner  
MFB Solicitors

TEL +44 207 330 8000  
MOB +44 7971 049333  
DDI +44 207 330 8006

**M F B**

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**Matthew Moore**

**From:** Mark Seward [MSeward@m-f-b.co.uk]  
**Sent:** 10 January 2008 06:37  
**To:** Matthew Moore  
**Cc:** Nick Burgess; astapov@astapovlawyers.com  
**Subject:** Re: PAGANE

Matthew

Good morning. Please be aware that I no longer represent Glingrow Holding Ltd in this matter. Please address all future correspondence to:-

ANDREY ASTAPOV  
ASTAPOV LAWYERS  
International Law Group  
3 Shovkovychna str., 1st floor  
Kyiv, 01021, Ukraine  
Tel: +38 (044) 253 14 34, 253 79 04  
Fax: +38 (044) 253 69 31

E-mail: [astapov@astapovlawyers.com](mailto:astapov@astapovlawyers.com)  
<

Mr Astapov reads in copy.

Kind regards  
Mark Seward  
Partner  
MFB Solicitors

TEL +44 207 330 8000  
MOB +44 7971 049333  
DDI +44 207 330 8006

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